REMARKS

Claims 1-13 were present for examination. Claims 1, 2, 5 and 7-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu (6,041,410) and Flick (6,140,939). Claim 3 stands rejected as above further in view of Nicholls. Claim 4 is rejected over Flick and Hsu as above and further in view of Toyoda et al. (5,999,637). Claim 6 is rejected as being unpatentable over Flick and Hsu above further in view of Fitzgibbon (5,751,224) which is owned by the assignee of the present application. The rejection of claim 6 is considered by the Examiner to bring forth a case of non-statutory double patenting. Claims 12 and 13 were rejected over Hsu and Flick and further in view of Waraksa (5,412,379). The rejections as they may apply to the claims presented herein are respectfully traversed.

Amended claim 1 recites a rolling code responsive movable barrier operator system for controlling access to a secure area that includes a fingerprint communicating unit. The fingerprint communicating unit is disposed outside the secure area and remote from a barrier movement operator inside the secure area. The fingerprint communicating unit includes a fingerprint sensor disposed outside the secure area for generating a signal representative of a fingerprint. The fingerprint communicating unit also includes a transmitter controller for combining the signal representing the fingerprint with a rolling code to produce an encoded signal. A transmitter emits the encoded signal representative of a sensed fingerprint from the fingerprint sensor and the rolling code.

The barrier operator system also includes a barrier movement operator. The barrier movement operator comprises a receiver inside the secure area for receiving the encoded signal representative of the fingerprint. A fingerprint circuit is disposed inside the secure area and is responsive to the received encoded signal for decoding the encoded signal to identify the signal representing a fingerprint and for determines whether the signal representing a fingerprint is representative of an authorized user. A rolling code acceptance apparatus determines whether the rolling code is acceptable. The barrier operator also includes a barrier operator circuit for commanding a barrier to assume a particular position when the fingerprint is determined to be from an authorized user and the rolling code is determined to be acceptable.

In contrast, Flick describes a system where only fingerprint data is sent. Specifically, a

vehicle remote start controller 86 receives biometric sensor data from a remote transmitter 50. However, there is no teaching of the transmitter 50 sending both a rolling code (representative of a particular transmitter) and fingerprint data as recited in claim 1. There is also no teaching of determining whether both a fingerprint and rolling code are acceptable as recited in claim 1.

In Hsu, the system validates the fingerprint and sends a standard transmission indicating a valid fingerprint. Specifically, a person 12 has their fingerprint scanned and compared to a reference fingerprint at a fob 14. A confirming message is sent to a door 12 if a match is determined. Hsu does not teach the use of codes and, as with Flick, there is no teaching of transmitting both a rolling code and fingerprint data as recited in claim 1. As with Flick, there is also no teaching of determining whether both a fingerprint and rolling code are acceptable as recited in claim 1.

Waraksa teaches a passive keyless entry system. More specifically, a transmitter 24 generates a rolling code. However, Waraksa does not teach the use of both a rolling code and fingerprint data in any transmission. As with Flick and Hsu, there is also no teaching of determining whether both a fingerprint and rolling code are acceptable as recited in claim 1.

Consequently, none of the references teach or suggest a system that determines the acceptance of both a user fingerprint and a rolling code. Since elements of claim 1 are not taught or suggested by the prior art, it is believed claim 1 is allowable for this reason.

The Office Action additionally stated that "Waraksa teaches a rolling code used to mix up the id or unlocking code of the portable device to prevent cloning and unauthorized access. Therefore, it would have been obvious... to have mixed a rolling code with the Hsu-Flick transmission since this would aid in preventing unauthorized access." The Applicants disagree with these assertions for the following reasons.

Specifically, Flick is only concerned with fingerprint identification and it is this fingerprint identification that provides the required security. In Hsu, security is provided by the comparison at the fob of the fingerprint with a reference fingerprint. Neither of these references requires or suggests that an identification of the transmitter (as provided by the rolling code) is needed or desired at the receiver to provide additional security. In other words, neither reference hints that the security mechanism described in the reference would prove inadequate and additional security (i.e.,

a rolling code) would be required or desirable. A motivation or suggestion for a proposed combination must be contained within the references themselves. See MPEP §2143. Consequently, it is believed that since there is no motivation to combine the references, the proposed combination is improper and claim 1 is allowable for this additional reason.

Claim 12 has been incorporated into claim 1 and has been cancelled. Claims 2-11 and 13 depend directly or indirectly upon claim 1. Since claim 1 is allowable, it is believed that the remaining claims are also allowable.

Claim 6 was rejected under double patenting grounds. Since claim 1 was amended and claim 6 depends upon claim 1, it is believed that this rejection is traversed.

The Commissioner is hereby authorized to charge any additional fees which may be required in this Application to Deposit Account No. 06-1135.

Respectfully requested,

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